

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JANUARY 17, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - VAR-14734 – APPLICANT/OWNER: STEVEN PORTNOFF**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE DECEMBER 20, 2006 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

**\*\* CONDITIONS \*\***

The Planning Commission (7-0 vote) and staff recommend DENIAL. If Approved, subject to:

**Planning and Development**

1. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**Public Works**

2. All walls, private improvements and landscaping installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives.

**\*\* STAFF REPORT \*\***

**APPLICATION REQUEST**

This is an appeal filed by the applicant from the denial by the Planning Commission of a request for a Variance to allow proposed six-foot high block walls in the front yard where four feet is the maximum height allowed on 0.63 acres located on the south side of O'Bannon Drive, approximately 140 feet west of Lisa Lane.

A related Variance to allow a proposed single-family dwelling to be five feet from the side property line where 10 feet is the minimum setback required (VAR-16769) and a Special Use Permit (SUP-15027) to allow a proposed 80-foot high amateur radio antenna tower on the subject site will also be considered on this agenda.

**EXECUTIVE SUMMARY**

The applicant has created a self-imposed hardship. An alternative wall design could be utilized; therefore, denial of this request is recommended.

**BACKGROUND INFORMATION**

***A) Related Actions***

The Planning Commission recommended approval of companion item VAR-16769 concurrently with this application.

The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #32/ar).

***B) Pre-Application Meeting***

06/14/06      The requirements of a Variance application were explained.

***C) Neighborhood Meetings***

A neighborhood meeting is not required as part of this application request, nor was one held.

**DETAILS OF APPLICATION REQUEST**

***A) Site Area***

Net Acres:                      0.63

**B) Existing Land Use**

Subject Property: Undeveloped  
North: Single Family Dwelling  
South: Single Family Dwelling  
East: Single Family Dwelling  
West: Undeveloped – single family subdivision map recorded

**C) Planned Land Use**

Subject Property: R (Rural) Density Residential  
North: R (Rural) Density Residential  
South: R (Rural) Density Residential  
East: R (Rural) Density Residential  
West: ML (Medium Low) Density Residential

**D) Existing Zoning**

Subject Property: U [(Undeveloped) Zone, R (Rural) General Plan Designation]  
North: R-1 (Single Family Residential)  
South: U [(Undeveloped) Zone, R (Rural) General Plan Designation]  
East: U [(Undeveloped) Zone, R (Rural) General Plan Designation]  
West: U (Undeveloped) zone under resolution of intent to R-PD6  
(Residential Planned Development, 6 units per acre.

**E) General Plan Compliance**

The U (Undeveloped) zoning classification is in conformance with the R (Rural) density residential General Plan designation.

<b><i>SPECIAL DISTRICTS/ZONES</i></b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>		<b>X</b>
<b>Special Overlay District</b>		<b>X</b>
<b>Trails</b>		<b>X</b>
<b>Rural Preservation Overlay District</b>		<b>X</b>
<b>County/North Las Vegas/HOA Notification</b>		<b>X</b>
<b>Development Impact Notification Assessment</b>		<b>X</b>
<b>Project of Regional Significance</b>		<b>X</b>

**ANALYSIS**

**A) Zoning Code Compliance**

**A1) Development Standards**

Pursuant to Title 19.08, the following Development Standards apply to the subject proposal:

Standards	Required	Requested	Compliance
<b>Wall Fence Height</b>			
• Front	4 Feet (top 2 feet 50% open )	6.0 Feet	N
• Right Side	8 Feet	8 Feet	Y
• Left Side	8 Feet	8 Feet	Y
• Rear	8 Feet	8 Feet	Y

The applicant is requesting a deviation of 50% of the front yard wall standard detailed in Title 19.08.040(B) (2). The proposed wall is six feet in height. The wall is only permitted to be four feet tall in this area, with the top two feet 50% open.

***B) General Analysis and Discussion***

The proposed wall does not comply with the development standards set forth in 19.08.040(B) (2). The current wall standards for residential zoning districts do not place an inherent hardship on the applicant, nor prohibit him from making the highest and best use of the property. Therefore, staff must recommend denial.

**FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing a wall not in conformance to the zoning code. Alternative wall design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**PLANNING COMMISSION ACTION**

The Planning Commission considered a condition to require a wrought iron fence.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 5

**ASSEMBLY DISTRICT** 2

**SENATE DISTRICT** 8

**NOTICES MAILED** 233 by City Clerk

**APPROVALS** 0

**PROTESTS** 4